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FILED

Date 5/19/15 By *Susan Saylor*

8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke
12 Probation Against:

Case No. 2011-72(g)

13 **MARTIN C. AGUINAGA**
2121 North Moreno Court
14 Visalia, CA 93291

PETITION TO REVOKE PROBATION

15 **Applicator License No. RA 50864**

16 Respondent.

17 Susan Saylor ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Petition to Revoke Probation solely in her official capacity as
20 the Registrar/Executive Officer of the Structural Pest Control Board (the "Board"), Department of
21 Consumer Affairs.

22 2. On or about April 30, 2010, the Board issued Applicator License Number RA 50864
23 in Branches 2 and 3 to Martin C. Aguinaga ("Respondent"), as an employee of Eagleshield Pest
24 Control L.P. On or about June 30, 2013, Respondent left the employ of Eagleshield Pest Control
25 L.P. On or about July 31, 2013, Respondent was employed by Wild West Pest Control. The
26 applicator license was in effect at all times relevant to the charges brought herein and will expire
27 on June 30, 2016, unless renewed.

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3. In a disciplinary action entitled *In the Matter of the First Amended Accusation Against: Martin C. Aguinaga*, Case No. 2011-72(g), the Board issued a *Decision and Order* (the “decision”), effective December 1, 2013, in which Respondent’s applicator license was revoked. However, the revocation was stayed and Respondent’s applicator license was placed on probation for a period of three years with certain terms and conditions. A copy of the decision is attached as **Exhibit A** and is incorporated by reference.

JURISDICTION

4. Business and Professions Code (“Code”) section 8620 provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

5. Section 8625 of the Code states:

The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

6. Grounds exist for revoking the probation and reimposing the order of revocation of Respondent's Applicator License No. RA 50864 as the *Decision* in Accusation No. 2011-72(g) states, in pertinent part:

Should Respondent violate probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

7. Respondent's probation is subject to revocation, in that he violated probation as set forth below:

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1 **FIRST CAUSE TO REVOKE PROBATION**

2 (Quarterly Reports)

3 8. At all times after the effective date of Respondent's probation, Condition 2 stated:

4 Respondent shall file quarterly reports with the Board during the period of
5 probation.

6 9. Respondent's probation is subject to revocation because he failed to comply with
7 Probation Condition 2, referenced above, in that he failed to file quarterly reports due to the
8 Board on March 1, June 1, September 1, and December 1, 2014, and March 1, 2015.

9 **SECOND CAUSE TO REVOKE PROBATION**

10 (Failure to Cause Employer to Report Acknowledgment of Decision)

11 10. At all times after the effective date of Respondent's probation, Condition 4 stated:

12 Respondent shall notify all present and prospective employers of the decision in
13 case no. 2011-72(g) and the terms, conditions and restrictions imposed on
14 Respondent by said decision.

15 Within 30 days of the effective date of this decision, and within 15 days of
16 Respondent undertaking new employment, Respondent shall cause his employer to
17 report to the Board in writing acknowledging the employer has read the decision in
18 case no. 2011-72(g).

19 11. Respondent's probation is subject to revocation because he failed to comply with
20 Probation Condition 4, referenced above. Respondent failed to cause his employer, Wild West
21 Pest Control, to report to the Board a written acknowledgment that said employer read the
22 decision in Case No. 2011-72(g).

23 **PRAYER**

24 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Structural Pest Control Board issue a decision:

26 1. Revoking the probation that was granted by the Structural Pest Control Board in Case
27 No. 2011-72(g) and imposing the disciplinary order that was stayed thereby revoking Applicator
28 License No. RA 50864 issued to Martin C. Aguinaga;

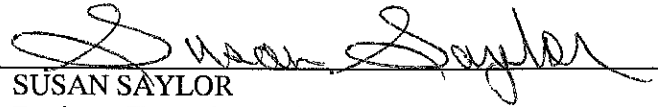
29 2. Revoking or suspending Applicator License No. RA 50864, issued to Martin C.
30 Aguinaga; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: 5/19/15



SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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